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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/704,178 10/31/00 GERRITY

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PM92/1011

EXAMINER

D 3730-904-2-C

ART UNIT	PAPER NUMBER
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BEAUCHAINE, M
DATE MAILED:

3653

10/11/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/704,178

Applicant(s)

GERRITY ET AL.

Examiner

Mark J. Beauchaine

Art Unit

3653

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 August 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-60 is/are pending in the application.
- 4a) Of the above claim(s) 47-49, 57 and 58 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 15-17, 20-22, 32, 34 and 39-41 is/are allowed.
- 6) ☒ Claim(s) 1-14, 18, 19, 23-31, 33, 35-38, 42-46, 50-56, 59 and 60 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 October 2000 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☒ Certified copies of the priority documents have been received in Application No. 09/042,784
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

Claims 47-49 (Group II), and claims 57 and 58 (Group III) are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to nonelected inventions, there being no allowable generic or linking claim. Election was made **without** traverse in Response to Restriction Requirement dated 22 August 2001 (Paper No. 4).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Drawings

The drawings are objected to because of the following discrepancies:

Figure 6; lead line of "504" points to incorrect element (cf. Figure 5).

Figure 7A; this figure should be labeled as "Figure 7" (cf. specification at page 2, line 31).

Figure 14; lead line of "1384" erroneously points to directional arrow 1385 (cf. specification at page 10, lines 15 and 28).

Figure 15; the directional arrow is erroneously numbered as "1368." The lead line for "1368" should point to the frame (1368) (cf. specification at page 10, line 4 and Figure 13).

Figure 16; items 1614 and 1612a are labeled twice. Furthermore, items 1614d and 1612d are not labeled (cf. specification at page 6, line 19). Still further, item 1614b is not labeled and is not shown (cf. specification at page 6, line 19).

Figure 18; items 1814b and 1814c are not labeled and are not shown (cf. page 6, line 20).

Correction is required.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference sign(s) not mentioned in the description:

Figure 1; items 1602, 1606a, 1606b, 1622, 1624, 1626, 1632 and 1882.

Figure 2; items 1440 and 1432.

Figure 5; item 316.

Figures 7 and 8; items 316.

Figure 9; item 812.

Figure 12; item 402b, 402c and 402d.

Figure 13; item 1414.

Correction is required.

Specification

The abstract of the disclosure is objected to because of the following features not referred to in the specification:

Lines 4 plus; blower and vacuum.

Lines 14 plus; air pressure system.

Correction is required. See MPEP § 608.01(b).

The disclosure is objected to because of the following informalities:

Page 2; this page has been provided with an insufficient margin,

Page 3; the text of this page has been partially obliterated,

Page 5, line 9; "solenoid 1325" appears to refer to "1326,"

Page 7, line 20; "dimples 18" appear to refer to "1820" (cf. page 7, line 21 and Figure 18),

Page 7, lines 20 and 21; "trommel 1313" appears to refer to "1314,"

Page 9, line 7; "1940d" is not referred to in the drawings,

Page 10, line 5; "withdrawn 1368" does not follow,

Page 10, line 7; "springs 1374a, 1374b" are misnumbered (cf. page 10, line 18 and Figures 14 and 15),

Art Unit: 3653

Page 10, line 10; "output portion 1309" appears to refer to "1308" (cf. page 4, line 26 and Figure 13),

Page 10, line 11; "pins 1322" appears to refer to "1322a, 1322b" (cf. Figure 15),

Page 10, line 15; "collapsed 1385" does not follow (cf. Figure 14),

Page 10, line 28; lip is erroneously numbered as "1382" (cf. tray 1382 of Figure 14),

Page 11, line 31; "trommel assembly 1368" appears to refer to "1338" (cf. Figure 16),

Page 13, line 32; "Fig. 9" appears to refer to "Fig. 7,"

Page 14, line 32; "cylinder 326" appears to refer to "328," and

Page 15, line 4; "housing" is erroneously numbered as "313" (see "slot 312") (cf. page 12, line 14 and Figure 3).

Appropriate correction is required.

Double Patenting

Claims 1-10, 12-14, 18, 19, 23-31, 33, 35-38, 43-46, 50-56, 59 and 60 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over the claims of U.S. Patent Numbers 5,842,916 and 6,174,230 B1 listed below:

Art Unit: 3653

Claims 1-5, 12-14 and 18; patent '230 claim 2,

Claims 6-9; patent '230 claim 6,

Claim 10; patent '916 claim 4,

Claim 19; patent '230 claim 7,

Claims 23-25; patent '230 claim 9,

Claim 26; patent '230 claim 10,

Claim 27; patent '916 claim 37,

Claim 28; patent '916 claim 14,

Claim 29; patent '916 claim 15,

Claims 30 and 56; patent '916 claim 38,

Claim 31; patent '916 claim 39,

Claim 33; patent '916 claim 60,

Claims 35-38; patent '230 claim 12,

Claims 43-46; patent '230 claim 13,

Claims 50-55; patent '230 claim 20,

Claims 59 and 60; patent '230 claim 22.

Although the conflicting claims are not identical, they are not patentably distinct from each other because the essential elements of the above-cited prior patent claims read on Applicant's relevant claims.

Art Unit: 3653

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 11 and 42 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The tilting operation of the container described in claim 11, and the air flow system of claim 42 are not mentioned in the specification.

Allowable Subject Matter

Claims 15-17, 20-22, 32, 34 and 39-41 are allowed.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark J. Beauchaine whose telephone number is (703)308-6336. The examiner can normally be reached on 8:00AM through 5:00PM Mondays through Thursdays.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Donald P. Walsh can be reached on (703)306-4173. The fax phone

Art Unit: 3653

numbers for the organization where this application or proceeding is assigned are (703)305-7687 for regular communications and (703)305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-1113.

mjb
October 5, 2001


DONALD P. WALSH
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600